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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

8 UNITED STATES OF AMERICA, No. CR-01-0344 EMC-20  
9 Plaintiff, [No. C-07-1844 EMC]  
10 v.  
11 KIM ELLIS, **ORDER RE CERTIFICATE  
APPEALABILITY**  
12 Defendant. **(Docket No. 40)**

**ORDER RE CERTIFICATE OF  
APPEALABILITY**

**(Docket No. 40)**

14 On January 24, 2012, the Court issued an order denying Kim Ellis’s motion to reopen his §  
15 2255 habeas case. In the order, the Court did not address whether or not a certificate of  
16 appealability should issue. *See* Section 2255 Case Rule 11 (providing that “[t]he district court must  
17 issue or deny a certificate of appealability when it enters a final order adverse to the applicant”).  
18 The Court hereby declines to issue a certificate of appealability. *See* 28 U.S.C. § 2253(c). This is  
19 not a case in which “reasonable jurists would find the district court’s assessment of the  
20 constitutional claims debatable or wrong.” *Slack v. McDaniel*, 529 U.S. 473, 484 (2000). Nor is  
21 this a case where “jurists of reason would find it debatable whether the district court was correct in  
22 its procedural ruling.” *Id.*

23 | IT IS SO ORDERED.

25 || Dated: March 12, 2012

  
EDWARD M. CHEN  
United States District Judge